

RESPONSE TO OFFICE ACTION

A. Status of the Claims

Claims 1-10, 12-14, 16, 17, 19-21, 28-30, and 37-39 are now pending.

Claims 1, 7, 9-10, 12-14, 16, 17, 28 and 30 were amended to clarify the nature of the claimed polynucleotides. Claims 37-39 were added. Support is found, at least, in the claims as filed and at page 10, lines 4-12, page 9, lines 6-15 and page 14, line 7, page 18, line 14. Applicants reserve the right to prosecute non-elected subject matter in one or more continuing application(s).

B. Response to Restriction Requirement

The Action indicates that Group II claims would be rejoined with Group I claims if the Group II claims specified Group I nucleic acids. Accordingly, claims 14, 16, and 17 are amended to incorporate the polynucleotides recited in Group I claims. Applicants understand that the Group I and Group II claims are now rejoined.

In response to the Action's final restriction requirement, claim 1 is amended to remove references to SEQ ID NOs: 2 and 3.

C. Rejection Under 35 U.S.C. § 112, Second Paragraph

Claim 10 is rejected for claiming both a broad range and a limitation. Claim 10 is amended herein to clarify the nature of the claimed method. As such, the rejection is believed moot and removal thereof is respectfully requested.

D. Rejection under 35 U.S.C. § 102(b)

The Action rejects claims 1-5, 7, 9, 19, 21, 28 and 30 under 35 U.S.C. § 102(b) over Walker *et al.* (*The Plant Cell*, Vol. 11, pp. 1337-1349). In particular, it is asserted that the reference teaches a TTG1 gene from *Arabidopsis* that would hybridize to SEQ ID NO: 147, that comprises a fragment of SEQ ID NO: 147, and that complements a mutant TTG1 gene when inserted into an expression cassette. It is also asserted that a plant disrupted in a phenylpropanoid pathway would inherently result in reduced protein or oil content. An alignment showing a 65.7% identity between SEQ ID NO: 147 and the TTG1 *Arabidopsis* gene was provided with the Action.

In response, Applicants note that claim 1 has been amended and that the issue with respect to fragments is now moot. With respect to hybridization, Applicants note that amended claims 1, 7, 10 and 28 require hybridization under conditions of 50% formamide, 5 X SSC at 42 °C, with washing in 0.1 X SSC, 0.1% SDS at 65 °C, e.g., stringent conditions. Such stringent conditions do not permit a substantial mismatch as in the case of only 65.7% identity. Moreover, the Walker *et al.* reference does not teach a polynucleotide having a sequence at least 90% identical to SEQ ID NO: 147, as recited in amended claims 1, 7, 10 and 28. The reference also fails to teach the use in transgenic plants of such a polynucleotide. As such, the reference does teach all elements of the claims and cannot serve as the basis for an anticipation rejection.

Withdrawal of the rejection is respectfully requested in view of the foregoing.

E. Rejection under 35 U.S.C. § 103(a)

Claims 1-5, 7, 9, 10, 12, 13, 19, 21, 28 and 30 are rejected under 35 U.S.C. § 103(a) over the Walker *et al.* reference in view of Gray *et al.* (WO 99/00501).

As noted above in regard to the Walker *et al.* reference, Gray *et al.* only teach a TTG1 sequence from *Arabidopsis*. An *Arabidopsis* TTG1 sequence fails to teach or suggest the currently claimed invention. Specifically, Gray *et al.* fails to teach or suggest a polynucleotide having a sequence at least 90% identical to SEQ ID NO: 147, or a polynucleotide that hybridizes under high stringency conditions to SEQ ID NO: 147. Furthermore, Gray *et al.* fail to teach the use of such polynucleotides in transgenic plants, and fail to teach or suggest plants having such polynucleotides. Therefore, because the combination of the Walker *et al.* and Gray *et al.* references fails to teach every limitation of the claims, the reference cannot support an obviousness rejection.

Applicants thus respectfully submit that the rejection is moot and request withdrawal thereof.

CONCLUSION

In view of the foregoing, Applicants respectfully request favorable consideration of this case.

The Examiner is invited to contact the undersigned attorney at (512) 536-3085 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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